

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

Michael William Slager,	:	
	:	
Petitioner	:	Civil Action 2:11-cv-00873
	:	
v.	:	Judge Economus
	:	
Mr. Jefferys, Warden	:	Magistrate Judge Abel
	:	
Respondent	:	
	:	
	:	

ORDER

Petitioner Michael William Slager's December 13, 2011 motion for default judgment (doc. 15) is DENIED. Respondent timely filed his response to the petition on December 6, 2011. Furthermore, even if respondent had failed to file a timely response, default judgment is not available in federal habeas cases:

The failure of State officials to file a timely return does not relieve the prisoner of his burden of proof. Default judgments in habeas corpus proceedings are not available as a procedure to empty State prisons without evidentiary hearings. We conclude that the failure of the Office of the Attorney General of Ohio to file a timely return does not afford a basis for *instanter* relief.

Allen v. Perini, 424 F.2d 134, 138 (6th Cir. 1970).

s/ Mark R. Abel
United States Magistrate Judge